BUCHANAN BECKERING"

171 Monroe Ave. NW Suite 750 Grand Rapids, MI 49503-2683 616-458-2464 Fax 616-458-0608 BuchananBeckering.com

Robert J. Buchanan Direct Dial: (616) 458-1100

October 10, 2005

Committee on Judiciary 308 House Office Building Michigan House of Representatives Lansing, Michigan 48909

Re: House Bill No. 4777

Dear Committee on Judiciary,

I offer testimony today in favor of House Bill No. 4777 which appropriately clarifies the wrongful death provisions of MCL 600.2922 and 600.2922a. The Michigan judiciary and bar require these very important clarifications so these two wrongful death statutes are applied in harmony as you intended, and to avoid conflicting decisions and judicial activism in the interpretation of uncertain language that currently exists.

I am privileged in my work as an attorney to help wonderful families who lose a loved one to death because of a wrongful act by someone else. These deaths occur to the innocent because of drunken driving, recklessness, or disregard by wrongdoers for the rights, well-being, or safety of others.

Moreover, these needless and preventable incidents take the innocent lives of those of all ages, randomly, and devastate their families and survivors. The wake of devastation and damage is very real and permanent, and a civilized society holds the wrongdoers fully accountable for the consequences of their acts. Justice is supposed to be blind and should never discriminate based on who the innocent victims are of the wrong.

The loss, devastation, and damages by wrongful conduct are just as horrific for a pregnant mother and her immediately family that lovingly await and welcome the new member. My clients John and Ginger Wood, for instance, are a couple forever devastated and emotionally scarred by the death of their unborn 5-month-old daughter, April Lynn Wood. April died on December 1, 2002 when two reckless young drivers launched a four-door sedan across the median of Highway I-94 in Battle Creek and slammed the car head-on into the Wood's approaching van. That violent collision



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killed the unborn daughter Ginger was carrying. April's death has devastated this honorable and hardworking family. The mother, Ginger, now takes prescription anti-depressants every single day and endures psychological support therapy once a week to control her deep depression from baby April's death. Meanwhile, in the pending civil lawsuit the defendants contend that MCL 600.2922a does nothing and provides no legal remedy for devastated Wood family.

In 1998 the Michigan Legislature specifically enacted MCL 600.2922a to eliminate this injustice in the civil tort system. Before that legislative correction, Michigan law had neglected to authorize any recovery of damages arising from the wrongful death of a wanted embryo or pre-viable fetus. This Legislature identified this injustice as a "gap" in civil tort law because in all other deaths the tortfeasor appropriately bears full legal responsibility for the damages wrought upon the innocent victims. The Michigan Legislature finally fixed this inequity and enacted MCL 600.2922a to fill this "gap" in state law.

The courts, unfortunately, have struggled to interpret and apply the inexact language of this newer statute, and to explain its inherent relationship to MCL 600.2922. The clarifications now proposed by House Bill No. 4777 appropriately resolve this significant problem and ensure a consistent and proper application of the civil tort law in Michigan. I speak in strong favor of this clarifying legislation.

Very truly yours,

BUCHANAN & BECKERING, P.L.

Robert J. Buchanan